

allow Senator SESSIONS to lay down the bill and make a statement if he wishes, and then I will reclaim my morning business time, if there is no objection.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

#### ORDER OF PROCEDURE

Mr. SESSIONS. Mr. President, I ask unanimous consent that 30 minutes of additional morning business time be set aside at 2:15 today and that Senator BYRD be recognized at that time; provided that following the expiration of the Republican morning business time the Senate resume consideration of Calendar 14, S. 256, the bankruptcy bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 256, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 256) to amend title 11 of the United States Code, and for other purposes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending committee amendments be agreed to and be considered as original text for the purposes of further amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I am pleased we are able now to move forward with this bankruptcy bill. We have been at it 8 years. It has passed this Senate 3 different times, one time with over 90 votes, and the last time was 83 to 15. It represents many years of steadfast debate and discussion.

I see my colleague from Illinois, Senator DURBIN, has been very active in all of this debate. As a matter of fact, at one time he was sponsoring the bill. He has continued to offer amendments that he believes improve it. Some have been accepted and made a part of the bill, some have not.

I think his evaluation of the legislation is far too negative in terms of the impact it would have on poor people. I believe it is going to benefit poor people. It is going to benefit families. It is going to benefit mothers with children. Clearly, it will do that and it will crack down on abuses.

Are there additional abuses we would like to deal with, one in particular he just mentioned, the homestead exemp-

tion? I would like to have gone further. It is in the constitution of quite a number of States that homesteading is so much and Senators have dug in their heels and said this overrides the Florida constitution, the Kansas constitution, the Texas constitution, or I cannot agree to do that on the floor, I will fight this bill and object to it if anyone tries to do that.

So we made some improvements in the abuses on homestead. I think that was the right direction. I wish we could have gone further. Senator HERB KOHL and I would have offered the amendment that could have changed it even more significantly, but perfect is not always achievable. I wish we could do more, but I think we made some real progress. We delineate those steps that tighten it up and make it much more difficult to abuse the homestead exemption. One has to actually live in a house for 2 years in that State or they cannot take advantage of it. That is a step forward and will stop these people from buying a house on the eve of filing bankruptcy. So there are some good things.

With regard to health care, let us talk frankly about health care. Yes, it is a factor in quite a number of bankruptcies. It is not the No. 1 factor. In my view, over half the bankruptcies are clearly not driven by health care, but a large number of them are impacted by health care bills.

The question is this: Will it change the situation for poor people who have health care bills? Will they not be able to take advantage of bankruptcy and wipe those debts out today, just like they would? Well, if they make below the median income—and we think about 80 percent of the filers in bankruptcy make below median income—the law is not going to change. They will still be able to wipe out any debts they have for medical or other reasons.

Then what about if one has a continuing health care debt, and they make above median income but they have a serious medical cost which is recurring regularly, what can they do about that? They will have a harder time going into chapter 13 and paying back some portion of the debts that they owe, people argue, and they are correct, but under this bill the bankruptcy judge can calculate that extra recurring health care debt as part of the expenses and those people would still be able to file under chapter 7, wiping out all of their debts, if that is what they chose to do. If they make above the median income and are able to pay off some of their debts to their doctor and their hospital, why shouldn't they? You mean they have no obligation to pay a hospital that may have spent a lot of money helping them get well or a physician who took care of them and provided medical care to them? If they are making \$80,000 a year and in bankruptcy under chapter 13 the judge finds that a person could pay back 25 percent, why should they not pay 25 percent? The judge will not

order it unless he believes based on the person's income level they have the ability to repay.

When a person in America undertakes an obligation to pay someone, they ought to pay them, and in any country that is so. We are drifting a bit to suggest there is no real obligation to pay the debts we incur. If we get to that point, then we have eroded some very important fundamental moral principles about commerce in America.

I know Senator DURBIN has an amendment he would like to offer, and I will not delay him from doing that. I have some other things to say in general about the bill, and I can say those later. I believe this is a rational bill. That is why it has such broad support. I believe this bill says plainly and clearly, if one can pay back some of their debts, they ought to do so. There is no reason why somebody making \$100,000 who can pay back 20 percent of the debts he owes to the person who fixed his car or the doctor who helped him get well should not pay that back. Why should they wipe out all of those debts?

For the vast majority of people who file, they will be able to file under chapter 7 and wipe out all of their debts if that is what they choose.

I will say one thing further about chapter 13. That is the category of bankruptcy a person would be put into if they were required to pay some of their debts back. Chapter 13 has been a part of bankruptcy law for quite a long time. In my home State of Alabama, over half the bankruptcies are filed under chapter 13. People want to pay their debts. They are behind in their debts. People are bugging them, the phones are ringing, lawsuits are being filed, and they are overwhelmed. They cannot pay all of their debts at once and they file under the bankruptcy law. They say, I want to pay back a percentage of my debts, Judge, and if you will set out a schedule, if you will get these creditors off my back and have them quit calling me, quit suing me, quit sending me demand letters, you set up the schedule, I will pay this one so much a month and this one so much a month. That is a healthy, good thing. We ought to do more of that.

In some States, under 5 percent of the debtors go into chapter 13. That number ought to come up because a lot of those people in some of these States that are so few in choosing chapter 13 should be in chapter 13 for their own self-interest.

One may ask, well, what about these people in Alabama? Are they making them go into chapter 13? No, they have chosen to go into chapter 13 because they want to pay back a portion of their debts. They want to stop the lawsuits from going on. There are other advantages to it, such as being able to keep an automobile and the apartment or the house that one owns in ways that one would otherwise not do.

There are some real advantages of going into chapter 13 rather than chapter 7. Many people choose it and in